

Exhibit 3

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

-----X
IN RE: Chapter 11
W. R. GRACE & CO., et al., 01-1139(JFK)
Jointly
Debtors. Administered
-----X

HIGHLY CONFIDENTIAL
DEPOSITION OF PAMELA D. ZILLY
New York, New York
August 20, 2009

Reported by:
Bonnie Pruszynski, RMR
JOB NO. 24345

<p style="text-align: right;">Page 146</p> <p>1 Zilly - Highly Confidential</p> <p>2 there would be from the cash that comes into the</p> <p>3 Chapter 7 trustee to get to the amount that is</p> <p>4 left over for distribution to general unsecured</p> <p>5 creditors?</p> <p>6 A The cost associated with the</p> <p>7 Chapter 7 liquidation and any costs that are</p> <p>8 allowed and any expenses that are allowed that</p> <p>9 were incurred under the Chapter 11 reorganization,</p> <p>10 and priority tax claims and priority claims. I</p> <p>11 don't recall if you mentioned those.</p> <p>12 Q Preparing the best interests analysis</p> <p>13 requires making assumptions about how the</p> <p>14 Chapter 7 case will play out; is that correct?</p> <p>15 A Yes.</p> <p>16 Q And the quality of the best interests</p> <p>17 analysis depends on the reasonableness of those</p> <p>18 assumptions, does it not?</p> <p>19 MR. LEIBENSTEIN: Objection.</p> <p>20 A I don't know what you mean by the</p> <p>21 quality.</p> <p>22 Q Let me ask it again. I'm sorry, let</p> <p>23 me withdraw the question and ask another one.</p> <p>24 The accuracy of the best interests</p> <p>25 analysis depends on the reasonableness of the</p>	<p style="text-align: right;">Page 147</p> <p>1 Zilly - Highly Confidential</p> <p>2 assumptions; is that correct?</p> <p>3 MR. LEIBENSTEIN: Objection.</p> <p>4 A Again, I am having trouble with the</p> <p>5 word "accuracy." This is a hypothetical analysis</p> <p>6 of a Chapter 7 liquidation using the most</p> <p>7 reasonable assumptions and/or facts that were in</p> <p>8 evidence at the time.</p> <p>9 Q And would you say that in preparing</p> <p>10 the best interests analysis for Grace, you have</p> <p>11 used the most reasonable assumptions that are</p> <p>12 available at this time?</p> <p>13 A Yes.</p> <p>14 Q There is always uncertainty about how</p> <p>15 a Chapter 7 case will turn out, is there not?</p> <p>16 A Uncertainty as to what?</p> <p>17 MR. LEIBENSTEIN: You know it's going</p> <p>18 to be liquidated.</p> <p>19 Q Well, there is always uncertainty as</p> <p>20 to the percentage distribution to general</p> <p>21 unsecured creditors that will be the bottom line</p> <p>22 result, is there not?</p> <p>23 MR. LEIBENSTEIN: Objection.</p> <p>24 A I'm sorry, I'm having trouble with</p> <p>25 your question. There is -- I believe the first</p>
<p style="text-align: right;">Page 148</p> <p>1 Zilly - Highly Confidential</p> <p>2 question was, there is always uncertainty as to</p> <p>3 how a Chapter 7 would turn out. And then the</p> <p>4 second question was, there is always uncertainty</p> <p>5 with respect to the percentage distribution to</p> <p>6 unsecured creditors.</p> <p>7 Q You can answer either one.</p> <p>8 A Well, I guess my question is or my</p> <p>9 problem with the question is, is the concept of</p> <p>10 uncertainty. If there is uncertainty with respect</p> <p>11 to the fact that actual results may differ than my</p> <p>12 assumptions, yes.</p> <p>13 Q And that's because it is inherently</p> <p>14 unforeseeable how, how the Chapter 7 case will</p> <p>15 turn out?</p> <p>16 MR. LEIBENSTEIN: Objection.</p> <p>17 Q Is that correct?</p> <p>18 A Are you asking specifically with</p> <p>19 respect to this analysis or in general?</p> <p>20 Q Well, why don't I withdraw the</p> <p>21 question, and we'll really just move on.</p> <p>22 This best interests analysis provides</p> <p>23 a range of projected outcomes; is that correct?</p> <p>24 A Yes.</p> <p>25 Q And in the best interests analysis</p>	<p style="text-align: right;">Page 149</p> <p>1 Zilly - Highly Confidential</p> <p>2 you prepared for Grace, the chance of generating</p> <p>3 cash at the top end of the range is pretty small,</p> <p>4 is it not?</p> <p>5 A I'm sorry. Are you referring to</p> <p>6 Chapter 7 or Chapter 11?</p> <p>7 Q Chapter 7.</p> <p>8 MR. LEIBENSTEIN: I'm going to</p> <p>9 object. I don't understand the question.</p> <p>10 MR. COHN: Well, what's more</p> <p>11 important is whether the witness understands</p> <p>12 the question.</p> <p>13 MR. LEIBENSTEIN: I agree with that.</p> <p>14 MR. COHN: And judging from the fact</p> <p>15 that she sat there for 30 seconds without</p> <p>16 answering, I'm beginning to have my doubts.</p> <p>17 A Could you repeat the question?</p> <p>18 Q Yes. Let me -- well, why don't I do</p> <p>19 this. Let me ask it in more concrete terms.</p> <p>20 Let me direct your attention to page</p> <p>21 three of Exhibit 14.</p> <p>22 A Yes.</p> <p>23 Q And ask you to look at the line that</p> <p>24 is about three-quarters of the way down the page</p> <p>25 called "Estimated value before provision for</p>

Page 150

Zilly - Highly Confidential
 general unsecured claims, asbestos PI and PD claims and equity interests."

A Yes.

Q And is it fair to say that that line forecasts a range from a low of 2.211 billion to a high of \$3.371 billion as being the range of potential outcomes on that line?

A Under these assumptions, yes.

Q Now, the chance of generating the full 3.371 billion at the top of that range is pretty small, is it not?

A I mean, it assumes a range of possible outcomes. On the Chapter 7 liquidation high, the primary differences -- in fact, the only differences between these two columns -- no, I'm sorry, there is one other difference.

But the significant difference in the numbers refers to the assumption in the high scenario that the Fresenius payment and the Sealed Air payment would come in as a discounted value, whereas in the low scenario it assumes that the recovery under those two line items is zero.

Q So, so you are saying that is the most significant of the differences between the

Page 151

Zilly - Highly Confidential

high end and the low end; is that correct?

MR. LEIBENSTEIN: Objection.

A That is the most significant in dollar amount.

Q So, in percentage terms, what would you say are the chances of achieving the high end outcome of approximately 3.371 billion?

A I didn't assess this in terms of percentage terms. There is an assumption made that in the high end, that Chapter 7 trustee would be, would be successful in achieving the same settlements as Sealed Air and Fresenius paid under the plan.

The reason it's in the high column is because -- and not in the low column -- is because that represents a best outcome, which one cannot assume, and therefore is zero in the low column.

Q You have no opinion about whether it is more likely that the Chapter 7 trustee will achieve the high-end figure, 3.371 billion, than the low-end figure of 2.211 billion; is that right?

MR. LEIBENSTEIN: Objection, mischaracterizes the testimony.

Page 152

Zilly - Highly Confidential

MR. COHN: I wasn't trying to characterize it.

MR. LEIBENSTEIN: You started off by "so." When you say "so," it sounds like based on what you previously said. That is what "so" implies.

A What this analysis says is there was a range of values ranging from zero to the high column. The zero column assumes that -- that the trustee would not be able to achieve the same settlements with Sealed Air and Fresenius, and the reason for that assumption is primarily because of a lack of 524G protection under a Chapter 7, in which case it would -- it would -- it would be optimistic to assume that Sealed Air would make the same payments as it did under the Chapter 11 case, when in fact in the Chapter 7 case, the reason for making -- I'm assuming the reason for making that settlement was in fact getting the benefit of the 524G injunction as well as fraudulent conveyance issue would not be available to them in the Chapter 7.

Q I would like to come back to the specific issue of that line item and others a

Page 153

Zilly - Highly Confidential

little later on.

(Interruption in proceedings.)

Q So, right now I would like you to try, if you can, to answer the question of what level of comfort you have that the particular bottom-line outcomes will be achieved, so, let me again ask it, see whether I can ask it in a way that permits you to answer.

How likely is it, in your view, that the Chapter 7 trustee will achieve at least the low figure of 2.211 billion that you have forecasted?

A Well, that is what my analysis assumes on the low end.

Q So, therefore, would you say it is your view that it is very likely that the trustee will achieve at least the 2.211 billion result at the low end?

MR. LEIBENSTEIN: Objection.

A I don't have a view, nor do I express a view, as to whether it's likely or not. This is my range of values under the assumptions that are set forth in the analysis. I don't have a separate view with respect to these numbers.

Page 154

1 Zilly - Highly Confidential

2 Q So, is it your testimony that you

3 prepared a best interests analysis yielding a

4 result --

5 (Interruption in proceedings.)

6 (Discussion held off the record.)

7 Q Let's strike the question I was

8 starting to ask.

9 Does Exhibit 14 represent your

10 forecast of the outcome likely to be achieved in a

11 Chapter 7 case of Grace?

12 MR. LEIBENSTEIN: Objection, asked

13 and answered, mischaracterizes the

14 testimony.

15 A Exhibit 14 makes certain assumptions

16 with respect to how a Chapter 7 liquidation would

17 evolve, and page three sets forth what those

18 assumptions are -- what these assumptions are and

19 what the, what the estimated values would be under

20 those assumptions.

21 Q And am I correct to recall that you

22 testified that the assumptions that you made were

23 reasonable assumptions?

24 MR. LEIBENSTEIN: Objection, asked

25 and answered.

Page 156

1 Zilly - Highly Confidential

2 THE WITNESS: What was the question?

3 (Record read.)

4 MR. LEIBENSTEIN: Objection, asked

5 and answered.

6 A I can't answer that, or I have

7 answered it to the best of my ability.

8 Q In order to make reasonable

9 assumptions about how a Chapter 7 case will play

10 out, you need to be familiar with how Chapter 7

11 works; is that correct?

12 A Generally, yes.

13 Q Are you familiar with how Chapter 7

14 works?

15 A Generally, yes.

16 Q How did you acquire that familiarity?

17 A From experience in working with

18 Chapter 11 cases, experience discussing

19 Chapter 7 -- the potential of Chapter 11 cases

20 being liquidated under Chapter 7, the experience

21 of having done best interests analysis for

22 15 years, and from discussing certain legal

23 aspects of a Chapter 7 liquidation with counsel.

24 Q Have you ever been engaged in any

25 capacity in a Chapter 7 case?

Page 155

1 Zilly - Highly Confidential

2 A What I testified to is that I -- is

3 that the assumptions that I used I believed were

4 reasonable and -- the assumptions that I used were

5 reasonable and that the analysis also included

6 other facts that were in evidence at the time this

7 analysis was prepared.

8 (Record read.)

9 Q Does the best interests analysis,

10 which is Exhibit 14, represent a reasonable

11 forecast of the results of a Chapter 7 case of

12 Grace?

13 MR. LEIBENSTEIN: Objection.

14 You can answer.

15 A It represents a reasonable result of

16 an analysis that is based on assumptions that I

17 believe were reasonable.

18 Q But now please -- it was posed as a

19 yes or no question, so would you please answer the

20 question yes or no.

21 Would you like it read back to you?

22 MR. LEIBENSTEIN: I don't think it's

23 only a yes or no question. I think she is

24 entitled to say she can't answer it yes or

25 no also.

Page 157

1 Zilly - Highly Confidential

2 A No.

3 Q Has any of the companies for which

4 you performed a best interests analysis ever had

5 its Chapter 11 case converted to Chapter 7?

6 A No.

7 Q Now, you said you have done best

8 interests analysis for 15 years. Would you tell

9 me over that time approximately how many of these

10 analyses you prepared?

11 MR. LEIBENSTEIN: Objection, vague.

12 A I don't recall.

13 Q Well, let's do it this way: Would

14 you just recite the names of the debtors for which

15 you can now recall having done a best interests

16 analysis?

17 MR. LEIBENSTEIN: Objection.

18 A Dow Corning, Babcock & Wilcox, ABB

19 Lummas, Combustion Engineering. Those are the

20 ones that I recall.

21 Q When a Chapter 7 trustee sells a

22 business as a going concern, does he or she

23 typically emphasize a relatively speedy

24 disposition of the business?

25 A Yes, consistent with still trying to

Page 158

1 Zilly - Highly Confidential
2 achieve the highest value for the assets.

3 Q When a Chapter 7 trustee pursues
4 litigation, is it typical that he or she would try
5 to settle the litigation in a relatively short
6 time frame?

7 A I think the trustee would have to
8 balance settling the litigation with the cost, the
9 time, and the potential outcome of that
10 litigation.

11 Q So the trustee would attempt to
12 maximize the value of the litigation, having all
13 of those factors in mind; is that correct?

14 MR. LEIBENSTEIN: Objection,
15 mischaracterizes the testimony. You said
16 "so the trustee." That is not what she
17 said.

18 Q Then let me, let me ask the question
19 this way: Would the trustee try to maximize the
20 value of the litigation, having in mind the
21 factors that you just enumerated?

22 A I'm sorry, I don't understand the
23 question. The litigation regarding what?

24 Q I'm talking about how a Chapter 7
25 trustee in general would be motivated to act. So

Page 160

1 Zilly - Highly Confidential
2 someone to undertake that project?

3 A No. I mean I --

4 (Interruption in proceedings.)

5 A I was not specifically -- I'm
6 assuming he's not objecting.

7 I was not specifically asked. I
8 simply knew that it was going to be part of my
9 responsibility.

10 Q So, when did you start preparing
11 Exhibit 14?

12 MR. LEIBENSTEIN: Objection, vague.
13 There were other plans where there were best
14 interests analysis. I mean there was
15 another iteration of this best interests
16 analysis. I'm not sure what you are
17 referring to when you say the Exhibit 14,
18 because there's specifically this
19 Exhibit 14, but remember there was a plan
20 last year that had something very similar.

21 MR. COHN: That is helpful.

22 Q When did you first start to prepare
23 any --

24 MR. LEIBENSTEIN: I like always to be
25 helpful.

Page 159

1 Zilly - Highly Confidential
2 I am saying when a trustee has litigation as one
3 of the assets of the estate.

4 A I think there would be a time
5 constraint and a money constraint with respect to
6 a Chapter 7 trustee pursuing litigation to the end
7 with respect to assets of the estate. And balance
8 that against the view as to what the probable
9 outcome of that litigation would be.

10 Q In general in a Chapter 7 case,
11 litigation gets settled rather than pursued to the
12 end; is that correct?

13 A Or not pursued at all.

14 Q But the answer is yes, with the "or
15 not pursued at all"?

16 A Yes.

17 Q How did you come to prepare the best
18 interests analysis for Grace?

19 A I think as I testified before, the
20 best interests test is a requirement under the
21 plan of reorganization, and in my capacity as a
22 financial advisor to the company, it was my
23 responsibility working with the company to prepare
24 the best interests analysis.

25 Q So were you asked at some point by

Page 161

1 Zilly - Highly Confidential

2 Q When did you first start to prepare
3 any best interests analysis for Grace?

4 A Probably several months prior to the
5 time the first plan and disclosure statement, or
6 the first time that a plan and disclosure
7 statement was filed.

8 Q And how did you go about preparing
9 that best interests analysis?

10 A The best interests analysis requires
11 that certain conditions are met, identifying what
12 those conditions are and the analysis that needs
13 to go into preparing the analysis, to see whether
14 or not those conditions are met, and then
15 determining the actual dollar amounts that would
16 feed into the analysis to be able to determine
17 whether or not the best interests test is met.

18 Q I guess I was trying to get at
19 something less abstract, which is what did you
20 actually do as a human being to get the project
21 started.

22 MR. LEIBENSTEIN: I'm going to
23 object.

24 A I am glad everyone finds this
25 humorous.

<p style="text-align: right;">Page 162</p> <p>1 Zilly - Highly Confidential</p> <p>2 I estimated the value of the</p> <p>3 reorganized debtors. I determined a discount</p> <p>4 factor. I determined what other assets would be</p> <p>5 available. And all of this, by the way, refers to</p> <p>6 both Chapter 7 liquidation and the Chapter 11</p> <p>7 cases reorganization.</p> <p>8 I determined the amount of possible</p> <p>9 insurance recovery. I analyzed the costs that</p> <p>10 would be in a Chapter 11 reorganization. I</p> <p>11 calculated the costs that would be in a Chapter 7</p> <p>12 liquidation based on the assumptions set forth on</p> <p>13 this page.</p> <p>14 I looked at the claims analysis that</p> <p>15 we had prepared based on claim filings to</p> <p>16 determine how much would be in the way of</p> <p>17 administrative expenses, priority tax claims and</p> <p>18 priority claims and secured claims.</p> <p>19 Did a mathematical calculation to</p> <p>20 determine what the estimated value would be before</p> <p>21 general unsecured claims, asbestos PI and PD</p> <p>22 claims and equity interests.</p> <p>23 Q All right. So let's go through that</p> <p>24 item by item.</p> <p>25 MR. LEIBENSTEIN: Is it now</p>	<p style="text-align: right;">Page 163</p> <p>1 Zilly - Highly Confidential</p> <p>2 convenient if I take a two-minute break?</p> <p>3 MR. COHN: Of course.</p> <p>4 (Recess taken.)</p> <p>5 BY MR. COHN:</p> <p>6 Q All right. Directing your attention</p> <p>7 to page three of Exhibit 14, would you first tell</p> <p>8 me what is the assumed date of conversion of the</p> <p>9 Grace bankruptcy case from Chapter 11 to Chapter 7</p> <p>10 under this analysis?</p> <p>11 A 12/31/09.</p> <p>12 Q Let's -- starting off with the line</p> <p>13 entitled "Estimated Value of Reorganized Debtors</p> <p>14 and Non-Debtor Affiliates," would you first tell</p> <p>15 me how you reached the figure itself, and then we</p> <p>16 will talk about the discount factor.</p> <p>17 A The value of the organized debtors is</p> <p>18 the same value that was set forth in the</p> <p>19 disclosure statement as the value of the</p> <p>20 reorganized enterprise value of the debtors based</p> <p>21 on the valuation analysis we did for the</p> <p>22 disclosure statement.</p> <p>23 And it's based on an analysis of --</p> <p>24 typical valuation analysis based on looking at</p> <p>25 comparable companies -- excuse me. It was an</p>
<p style="text-align: right;">Page 164</p> <p>1 Zilly - Highly Confidential</p> <p>2 enterprise, total enterprise value to EBITDA</p> <p>3 analysis, looking at comparable companies to</p> <p>4 Grace, as well as the average multiple of Grace's</p> <p>5 peer set of companies over the last ten years, as</p> <p>6 well as looking at precedent transactions.</p> <p>7 Q And was that valuation analysis the</p> <p>8 subject of an expert report?</p> <p>9 MR. LEIBENSTEIN: Objection, vague.</p> <p>10 A I don't believe so. I think it was</p> <p>11 simply set forth in the disclosure statement.</p> <p>12 Q Now, the next line is a discount</p> <p>13 factor. Would you please explain how that was</p> <p>14 derived.</p> <p>15 A The discount factor in the Chapter 7</p> <p>16 liquidation is presumed to be 50 percent off of</p> <p>17 the estimated value of the reorganized debtor and</p> <p>18 the non-debtor affiliates. That 50% is intended</p> <p>19 to capture the discount off of the estimated value</p> <p>20 because of the time pressures that the trustee</p> <p>21 would be under in terms of selling this business,</p> <p>22 as well as quantifying the probability that the</p> <p>23 asset could not be sold at fair market value or</p> <p>24 potentially at all.</p> <p>25 Q How soon after conversion to</p>	<p style="text-align: right;">Page 165</p> <p>1 Zilly - Highly Confidential</p> <p>2 Chapter 7 would this sale likely take place?</p> <p>3 A The analysis doesn't assume a certain</p> <p>4 set number of months, but what it does is simply</p> <p>5 assume that the trustee would be attempting to</p> <p>6 sell this asset as quickly as possible, and</p> <p>7 probably I think our estimate was within -- our</p> <p>8 overall estimate was that it would take, you know,</p> <p>9 12 months or so to actually achieve the entire</p> <p>10 Chapter 7 liquidation and the sale would probably</p> <p>11 take place sometime during that time.</p> <p>12 The reason we didn't feel it was</p> <p>13 important to specify a number of months is because</p> <p>14 although there would be costs associated with</p> <p>15 running the business during that period of time,</p> <p>16 those costs it was assumed would be offset by any</p> <p>17 cash that came into the business during that</p> <p>18 period of time.</p> <p>19 Q So, if I understand you correctly,</p> <p>20 you would expect the sale to be completed within</p> <p>21 12 months after the date of conversion?</p> <p>22 A That is correct.</p> <p>23 Q But it could be sooner.</p> <p>24 A It could be sooner. The analysis,</p> <p>25 the analysis -- the date is not as important for</p>

Page 166

1 Zilly - Highly Confidential
 2 purposes of the estimated value as it is important
 3 for the assumption of cash, and the cash number
 4 assumes that all of this is wound down by
 5 12/31/09.
 6 Q I'm sorry, do you mean 12/31/10?
 7 A I'm sorry. 12/31/10, yes.
 8 Q Okay. So in answer to the question I
 9 asked, which is, "Or it might be sooner," it
 10 sounds as though you are saying, but don't let me
 11 put words in your mouth, that most likely it would
 12 take the full 12 months or something very close to
 13 it.
 14 MR. LEIBENSTEIN: Objection.
 15 Q To sell the business.
 16 MR. LEIBENSTEIN: Objection.
 17 A The actual sale could take less --
 18 the actual sale of the business could take less
 19 than 12 months. Documenting that sale, closing
 20 out the Chapter 7, we assumed would take
 21 12 months.
 22 Q Let's talk about cash.
 23 Grace is projected to have
 24 \$787 million of cash on hand as of 12/31/09; is
 25 that correct?

Page 168

1 Zilly - Highly Confidential
 2 Q Assuming that the business continued
 3 to make the normal investments in capital
 4 expenditure, and other items that were necessary
 5 to maintain the value of the business -- well,
 6 strike that. Let me not assume that.
 7 Would it be your expectation that the
 8 business would continue to make the -- to invest
 9 in capital expenditures, or would that stuff
 10 likely get put on hold during the period when the
 11 company was being marketed?
 12 A I think that -- I think that any
 13 significant expenditures on capital expenditures
 14 would probably -- would probably not happen. I
 15 believe the company would continue to spend
 16 whatever it needed to spend to maintain its
 17 properties.
 18 And also that cash would be used to
 19 pay liabilities that are also occurring in the
 20 normal cycle of any business, i.e., cash coming in
 21 from accounts receivable, but then you also have
 22 cash that has to go out to pay its payables.
 23 Q Assuming that the sale took place on
 24 12/31/2010, how much excess cash, if any, over and
 25 above the cash needed to pay the obligations

Page 167

1 Zilly - Highly Confidential
 2 A That is not quite what this number
 3 relates to. Basically, it's -- under the, under
 4 the plan assumptions, there is an assumption of
 5 cash at a starting day, there is an assumption of
 6 the use of cash for purposes of implementing the
 7 plan, and paying all of its obligations under the
 8 plan on the effective date, ending up with a cash
 9 amount at the end of a year.
 10 We basically worked backwards and
 11 said if you simply added back all of those
 12 amounts, what would be the pro forma cash that
 13 would be available under the Chapter 7
 14 liquidation. It's very close. There just might
 15 be some things that are off slightly.
 16 Q All right. So basically the
 17 787 million would be the cash that was on hand at
 18 that moment right before the projected
 19 consummation of the Chapter 11 plan on 12/31/09;
 20 is that correct? Or very close?
 21 A Yes, that's correct.
 22 Q Now, there would be additional cash
 23 generated by the business during 2010, as I
 24 believe you just testified; is that correct?
 25 A Yes, that's correct.

Page 169

1 Zilly - Highly Confidential
 2 incurred in running the business, would be
 3 generated by the business?
 4 MR. LEIBENSTEIN: Objection, asked
 5 and answered.
 6 A I have not done that analysis, and as
 7 I believe I have testified, that any, quote, cash
 8 that is generated by the business would also be
 9 used by the business during the period of time
 10 when it was for sale to pay its ongoing
 11 liabilities from operating as a going concern, so
 12 that to the extent the sale did not take place for
 13 six months to a year, the company would be cash
 14 neutral.
 15 Q May I direct your attention, please,
 16 to page eight of Exhibit 1, which is your report
 17 on feasibility.
 18 A Yes.
 19 Q Now, is it correct that you have
 20 forecast that the business will generate core
 21 EBITDA in the year 2010 of \$416 million?
 22 A That is the company's estimate.
 23 Q Do you believe that it is correct?
 24 A I believe it's reasonable.
 25 Q Okay. So in the context of

<p style="text-align: right;">Page 170</p> <p>1 Zilly - Highly Confidential</p> <p>2 Chapter 7, I believe you said a moment ago that</p> <p>3 capital expenditures will likely be put on hold.</p> <p>4 Does that mean that the figure two lines down on</p> <p>5 the chart on page eight, Exhibit 1, would no</p> <p>6 longer be required to be spent?</p> <p>7 MR. LEIBENSTEIN: Objection.</p> <p>8 A The company's forecast of 416 million</p> <p>9 of EBITDA in 2010 assumes several things that</p> <p>10 would not be the case with respect to liquidation</p> <p>11 analysis.</p> <p>12 Number one, it assumes that the plan</p> <p>13 is confirmed, and confers all the benefits that</p> <p>14 the company coming out of Chapter 11 could</p> <p>15 theoretically realize in its business.</p> <p>16 And number two, what I believe I</p> <p>17 testified to was the company will continue to make</p> <p>18 its maintenance capital expenditures.</p> <p>19 Q And where do I find -- I'm sorry.</p> <p>20 Was there anything else besides one and two?</p> <p>21 A Um-um.</p> <p>22 Q Okay. Where would I find on page</p> <p>23 eight of your report a number representing what</p> <p>24 you have called maintenance expenses that are</p> <p>25 going to continue to be spent?</p>	<p style="text-align: right;">Page 171</p> <p>1 Zilly - Highly Confidential</p> <p>2 MR. LEIBENSTEIN: Objection,</p> <p>3 mischaracterizes what she just said.</p> <p>4 A You would not find the number. The</p> <p>5 cap-ex number on this page represents both</p> <p>6 maintenance capital expenditures as well as</p> <p>7 investments in facilities.</p> <p>8 Q And do you know approximately the</p> <p>9 division between the two?</p> <p>10 A I recall that probably close to</p> <p>11 anywhere from 80, 75 to 100 million dollars would</p> <p>12 be maintenance cap ex.</p> <p>13 Q So the balance of 60 million to</p> <p>14 85 million dollars would represent non-maintenance</p> <p>15 cap ex which would be postponed in the context of</p> <p>16 Chapter 7; is that correct?</p> <p>17 MR. LEIBENSTEIN: Objection.</p> <p>18 A Which may be postponed in the context</p> <p>19 of Chapter 7.</p> <p>20 Q Now, would you please explain to me</p> <p>21 how confirmation of the Chapter 11 case affects</p> <p>22 EBITDA -- strike that -- Chapter 11 plan affects</p> <p>23 EBITDA.</p> <p>24 A There are a number of ways that</p> <p>25 exiting Chapter 11 would affect EBITDA. While the</p>
<p style="text-align: right;">Page 172</p> <p>1 Zilly - Highly Confidential</p> <p>2 company is in bankruptcy, its focus among other</p> <p>3 things has been on cash flow generation to have</p> <p>4 sufficient cash to make payments under the plan.</p> <p>5 To the extent that they were out of Chapter 11,</p> <p>6 they presumably would spend more, as you can see,</p> <p>7 on capital expenditures, to invest further in the</p> <p>8 business, to invest further in expanding its</p> <p>9 facilities, to invest further in building new</p> <p>10 facility such that they generate more sales, which</p> <p>11 would have the effect of generating more EBITDA.</p> <p>12 They would be in a position to take</p> <p>13 advantage of more, for example, joint venture</p> <p>14 opportunities, to make acquisitions, to invest</p> <p>15 more heavily in research and development and</p> <p>16 bringing along certain new products that it</p> <p>17 currently has in the pipeline.</p> <p>18 They would have the ability to</p> <p>19 potentially have more, more flexibility with</p> <p>20 respect to the pricing of its products, in terms</p> <p>21 of implementing price increases, and they would</p> <p>22 probably have the opportunity to do business with,</p> <p>23 more business with certain institutions, with</p> <p>24 certain companies who may have felt that working</p> <p>25 with a Chapter 11 company was not something they</p>	<p style="text-align: right;">Page 173</p> <p>1 Zilly - Highly Confidential</p> <p>2 desired to do.</p> <p>3 All of those would go to either</p> <p>4 improve sales, gross profit and EBITDA, once out</p> <p>5 of bankruptcy.</p> <p>6 Q So, is it your testimony that if the</p> <p>7 Grace bankruptcy were to last another year -- we</p> <p>8 are now talking about Chapter 11 bankruptcy --</p> <p>9 were to last another year, that the forecasted</p> <p>10 company EBITDA of \$416 million would not be</p> <p>11 achieved?</p> <p>12 MR. LEIBENSTEIN: Objection.</p> <p>13 A My testimony is that the \$416 million</p> <p>14 assumes that the company is out of bankruptcy as</p> <p>15 of December 31st, and therefore, you cannot rely</p> <p>16 on the 416, assuming the company is in either</p> <p>17 Chapter 11 or, worse, Chapter 7.</p> <p>18 Q Has the company prepared a forecast</p> <p>19 for the year 2010 that assumes that the company</p> <p>20 remains in Chapter 11 during that year?</p> <p>21 A Not to my knowledge, no.</p> <p>22 Q What is your understanding of --</p> <p>23 well, strike that.</p> <p>24 Is it your understanding that Grace</p> <p>25 will emerge from Chapter 11 on the so-called</p>

Page 174

1 Zilly - Highly Confidential
2 effective date of its Chapter 11 plan?

3 MR. LEIBENSTEIN: Objection.

4 A I'm sorry, could you --

5 MR. LEIBENSTEIN: Calls for
6 speculation.

7 A Could you repeat the question.
8 (Record read.)

9 A I don't -- I have no understanding.
10 I mean, the 12/31 -- in order to be able to
11 prepare analyses with respect to these types of
12 issues, there has to be an assumed effective date.
13 We assume the effective date is 12/31/09. I have
14 no evidence to suggest that is not the date, but
15 that is simply the date that was picked.

16 Q What do you understand is meant by
17 "Grace's emergence from Chapter 11"?

18 A That the company consummates its plan
19 of reorganization.

20 Q Okay. Thank you.

21 Now, can you direct your attention
22 back to Exhibit 14.

23 A Yes.

24 Q And I would now like to ask you about
25 the line item called "Fresenius payment."

Page 175

1 Zilly - Highly Confidential

2 Would you please first explain to me
3 what the figures of 115 million as the low and the
4 high in Chapter 11 are meant to signify.

5 A They are meant to signify the amount
6 of, the dollar amount of the settlement pursuant
7 to the Fresenius agreement.

8 Q That is the Fresenius settlement
9 agreement?

10 A Correct.

11 Q And that settlement agreement settled
12 what?

13 Would you like me to ask it another
14 way?

15 MR. LEIBENSTEIN: I'm going to object
16 to the extent it calls for a legal
17 conclusion.

18 But you can answer to the best of
19 your knowledge.

20 A Some -- my understanding was the
21 settlement agreement was reached in the context of
22 the -- what's become known as the fraudulent
23 conveyance lawsuit. The actual dollar amount I
24 believe was more complicated than that and related
25 to specific tax issues between Fresenius and

Page 176

1 Zilly - Highly Confidential
2 Grace, the details of which I am not aware.

3 Q Okay. But when we talk about a
4 settlement agreement, what it settled was a
5 fraudulent transfer lawsuit?

6 MR. LEIBENSTEIN: Objection.

7 A That is my understanding. I am not
8 sure that is the correct legal term, but that is
9 my understanding.

10 Q And would your answer be the same, by
11 the way, if we were talking about the Cryovac
12 payment on the next line?

13 A If you are referring to the answer to
14 settle a certain fraudulent conveyance action, the
15 answer is yes.

16 Q Now, would you explain to me -- now I
17 am just back to Fresenius.

18 Would you explain to me the
19 \$105 million figure at the high end of the range
20 in Chapter 7?

21 A the 105 million assumes that the
22 trustee would actually, Chapter 7 trustee would
23 actually litigate and achieve a settlement in the
24 same dollar amount as under the Chapter 11
25 reorganization, but discounted for, I believe it

Page 177

1 Zilly - Highly Confidential
2 was three years, for the time that it would take
3 to achieve that result.

4 Q And now please explain to me the --
5 it looks like a dash --

6 A Correct.

7 Q -- in the low end of the range of the
8 Fresenius payment.

9 A The low end of the range assumes that
10 zero, no dollars are forthcoming in the Chapter 7
11 liquidation for any number of reasons. Either
12 because the trustee chooses not to pursue the
13 litigation, a likely scenario, I guess, given the
14 time and the money that it would take to pursue
15 that litigation, and the fact that even if that
16 litigation were pursued, that the likelihood of
17 getting the same settlement dollars out of
18 Fresenius would be small, based on the fact that
19 in a Chapter 7 liquidation, there is no 524G
20 protection for Fresenius, and which would
21 basically cover its successor liability issues,
22 and also the fact that my understanding is that
23 the risks of -- to Fresenius on just a fraudulent
24 conveyance lawsuit from a legal perspective was
25 deemed small.

Page 178

1 Zilly - Highly Confidential
 2 **Q Deemed small by whom?**
 3 A Those doing the legal analysis.
 4 **Q Who are you referring to?**
 5 A My understanding, in discussions with
 6 both outside and inside counsel at -- for Grace,
 7 is that the fraudulent conveyance lawsuit was
 8 deemed to be a weaker case than the successor
 9 liability lawsuit.
 10 **Q Now, did I understand correctly your**
 11 **testimony of a moment ago to be that a Chapter 7**
 12 **trustee would likely not pursue the litigation at**
 13 **all?**
 14 MR. LEIBENSTEIN: Objection.
 15 Mischaracterizes the testimony.
 16 A I believe what I testified to is that
 17 a Chapter 7 trustee would need to find the time
 18 and the money to be able to pursue the fraudulent
 19 conveyance litigation, and that the reason it is
 20 zero in the low case is based on the assumption
 21 that the trustee either would not pursue that
 22 litigation because of the factors that I mentioned
 23 before or would be -- even in pursuing the
 24 litigation would be unsuccessful in achieving the
 25 same results that were achieved in the Chapter 11

Page 180

1 Zilly - Highly Confidential
 2 cash plus the interest that accrues on that cash,
 3 that is the \$953 million.
 4 **Q Have you updated this figure to**
 5 **reflect any changes in the stock price since that**
 6 **time?**
 7 A No, I have not.
 8 **Q What does the \$873 million figure**
 9 **represent at the high end of Chapter 7?**
 10 A It assumes that the Chapter 7 trustee
 11 is successful in achieving the same results in
 12 terms of the 953 million, but that it is
 13 discounted to take into account the three-year
 14 time period it would take to actually achieve that
 15 result.
 16 **Q And the low-end figure?**
 17 A That assumes that the trustee does
 18 not pursue the litigation because of the time
 19 constraints of money, probability of success, or
 20 time, or if he pursues the litigation, that it is
 21 unsuccessful in achieving any recovery from Sealed
 22 Air pursuant to that litigation.
 23 **Q Let's talk about the next line item,**
 24 **which is insurance recovery. Now, does this**
 25 **figure -- this figure comes off the Grace balance**

Page 179

1 Zilly - Highly Confidential
 2 case because of the lack of the factors that I
 3 just mentioned in a Chapter 7 case.
 4 **Q If the trustee chose to pursue the**
 5 **litigation, is it likely in your view that he**
 6 **would achieve a zero net recovery for the estate?**
 7 MR. LEIBENSTEIN: Objection to the
 8 use of the term "achieve."
 9 A I think it's more likely than not
 10 that the Chapter 7 trustee would not -- would
 11 achieve zero.
 12 **Q Let me direct your attention to the**
 13 **next line item, which is the Cryovac payment.**
 14 **Do I understand that the \$953 million**
 15 **figure on the Chapter 11 side of this chart**
 16 **represents the value of the settlement between**
 17 **Cryovac and Sealed Air on one hand and the**
 18 **bankruptcy estate on the other, to the bankruptcy**
 19 **estate?**
 20 A The 953 million, the Cryovac
 21 settlement is comprised of two separate parts.
 22 It's cash and the stock of Sealed Air. This
 23 number assumes a value of the stock of Sealed Air
 24 as of, I believe, February 20th, so based on
 25 whatever the stock price was at that date plus

Page 181

1 Zilly - Highly Confidential
 2 sheet, does it not?
 3 A Yes. As of 12/31/08, I believe.
 4 **Q And does this represent in your view**
 5 **the most accurate available figure to project the**
 6 **value of Grace's insurance recoveries?**
 7 MR. LEIBENSTEIN: Objection.
 8 A Yes, it does.
 9 **Q And that would be true in both**
 10 **Chapter 7 and Chapter 11; correct?**
 11 A Yes. The insurance recovery
 12 obviously is based on claims, when these claims
 13 are paid, how much insurance the company has, and
 14 so for lack of any other better information with
 15 respect to claims, the 500 million was simply
 16 assumed across all scenarios.
 17 **Q And that is a reasonable assumption**
 18 **in your view?**
 19 A Yes.
 20 **Q Costs associated with Chapter 11**
 21 **reorganization, would you please explain what that**
 22 **line item signifies?**
 23 A The company identified \$100 million
 24 in its Chapter 11 plan to pay for the various
 25 costs associated with exiting Chapter 11,

Page 182

1 Zilly - Highly Confidential
 2 including exit financing costs, legal costs.
 3 That is primarily it.
 4 **Q And those costs would be avoided in**
 5 **the event of a conversion to Chapter 7?**
 6 A That is the assumption that is made
 7 in this analysis.
 8 **Q And that is a reasonable assumption;**
 9 **correct?**
 10 A Yes.
 11 **Q Turning to the next line, which is**
 12 **professional fees in a Chapter 7 liquidation, do I**
 13 **understand that the projected professional fees**
 14 **would be \$24 million, apart from the fees of the**
 15 **trustee and any additional brokerage fees?**
 16 A That is correct.
 17 **Q And that is based on an assumed**
 18 **expenditure of \$2 million per month for 12 months?**
 19 A That's correct.
 20 **Q If the case went on longer than**
 21 **12 months, is it the assumption that would**
 22 **probably have meant that less than \$2 million a**
 23 **month got spent in the first 12 months?**
 24 MR. LEIBENSTEIN: Objection.
 25 A No, that's not what I would have

Page 184

1 Zilly - Highly Confidential
 2 the realizable proceeds in this hypothetical
 3 Chapter 7 liquidation.
 4 **Q And why did you use a percentage**
 5 **lower than the statutory formula approximating**
 6 **3 percent?**
 7 MR. LEIBENSTEIN: Objection.
 8 A That was simply an assumption.
 9 3 percent of these numbers would be a significant
 10 dollar amount, and we thought 1.5 percent was more
 11 conservative in respect of the amount of dollars
 12 that it would be applied against.
 13 **Q If, if the trustee were to bill on an**
 14 **hourly basis, what difference would it make in the**
 15 **projected figure for trustee fees?**
 16 A I haven't done that analysis.
 17 **Q The next line, additional brokerage**
 18 **fees, what is the basis for those figures?**
 19 A The assumption there is the trustee
 20 would hire a third party to actually market and
 21 sell the Grace business, and that that third party
 22 would require a fee that we have estimated to be
 23 .5 percent of the estimated proceeds.
 24 **Q Now, as to both the trustee fees line**
 25 **and the additional brokerage fee line, the reason**

Page 183

1 Zilly - Highly Confidential
 2 assumed.
 3 **Q So the cost could be a little more**
 4 **than 24 million if the case went longer than a**
 5 **year?**
 6 A Based on this assumption, yes.
 7 **Q The trustee fees in the next line, do**
 8 **I understand the low case to be \$27 million and**
 9 **the high case to be \$45 million.**
 10 A Yes, that's correct.
 11 **Q How did you get those figures?**
 12 A It's 1.5 percent of the calculation
 13 of estimated value available, the one million
 14 fifty plus the cash amount less the fees paid.
 15 **Q And why -- well, let me first ask:**
 16 **Why did you estimate the trustee fees as a**
 17 **percentage of what you just described rather than**
 18 **as a number of hours that would be expended times**
 19 **a reasonable hourly rate?**
 20 A It's my understanding that, and I
 21 don't recall where, but there is a general
 22 standard that trustees' fees can range up to
 23 3 percent of the amount of the proceeds realized
 24 in the Chapter 7 liquidation, so we simply used
 25 the percentage that was lower than that based on

Page 185

1 Zilly - Highly Confidential
 2 that the high case is a higher figure than the low
 3 case is because there would be more cash coming in
 4 the door; is that correct?
 5 A More total proceeds, yes.
 6 **Q And so essentially the sum total of**
 7 **those two lines says that 2 percent of the cash is**
 8 **going out the door in trustee fees or additional**
 9 **brokerage fees; is that correct?**
 10 A I am sorry, I didn't follow that.
 11 **Q You know, you actually -- your answer**
 12 **to the previous question I think covers it, so why**
 13 **don't we just move on.**
 14 The administrative expenses line,
 15 would you first please explain to me where the
 16 \$31 million figure for Chapter 11 comes from.
 17 A That's an estimate based on the
 18 company's books and records with respect to
 19 administrative expenses that would be payable on
 20 the effective date under the plan. The largest
 21 amount of that is professional fee hold-backs for
 22 all constituencies in the case, other professional
 23 fees, and a small amount of an administrative
 24 expense claim that is part of the environment EPA
 25 settlement that the company entered into six or

Page 186

1 Zilly - Highly Confidential
2 eight months ago.

3 Q And would you now explain to me where
4 the \$26 million figure comes from for Chapter 7?

5 A Yes. It's -- the reduction is based
6 on the assumption that certain of the professional
7 fees would not be paid in a Chapter 7 as opposed
8 to the Chapter 11.

9 Q So that is the difference between the
10 31 million and the 26 million?

11 A That is correct.

12 Q Then priority tax claims and priority
13 claims, you have shown \$39 million across the
14 board in either Chapter 7 or Chapter 11; is that
15 correct?

16 A This again is an estimate based on
17 the company's books and records and an analysis of
18 claim filings, as well as an analysis by Grace's
19 tax team as to the amount of tax claims that would
20 be priority tax claims, primarily state claims,
21 that would be paid on the effective date, and a
22 very small amount of odds and ends priority
23 claims.

24 Q So that brings us to what appears to
25 be the bottom line here, the line headed

Page 187

1 Zilly - Highly Confidential

2 "Estimated Value Before Provision for General
3 Unsecured Claims, Asbestos PI and PD Claims and
4 Equity Interests."

5 Is it fair to say that the conclusion
6 of this Grace best interests analysis is that in a
7 Chapter 7 case for Grace, commencing on
8 December 31, 2009, the amount of money available
9 to pay general unsecured creditors would be in a
10 range of from \$2.211 billion to \$2.371 billion?

11 MR. LEIBENSTEIN: Objection.

12 A Yes, assuming that -- if you include
13 the Fresenius and the Cryovac in the 3.371,
14 correct.

15 Q Now, is it your understanding that
16 under the proposed Chapter 11 plan, non-asbestos
17 general unsecured creditors will be paid 100 cents
18 on the dollar plus interest?

19 A I'm sorry, could you just repeat the
20 question.

21 Q Sure.

22 Is it your understanding that under
23 the proposed Chapter 11 plan, non-asbestos general
24 unsecured creditors will be paid 100 cents on the
25 dollar plus interest?

Page 188

1 Zilly - Highly Confidential

2 A Yes, with one exception. The --
3 depending on how you define general unsecured
4 claims, if you're including the post-retirement
5 plan in the amount of general unsecured claims,
6 that is not getting interest. Those claimants --
7 those participants in that plan do not get
8 interest.

9 Q Thank you.

10 Is your understanding that under the
11 Chapter -- let me start again.

12 Is it your understanding that under
13 the proposed Chapter 11 plan, asbestos personal
14 injury claims will be paid from a trust at a rate
15 projected to be from 25 to 35 cents on the dollar?

16 MR. LEIBENSTEIN: Objection.

17 A I don't have personal knowledge of
18 that number, no.

19 Q Is it your understanding that in a
20 Chapter 7 case for Grace, all general unsecured
21 claims would be paid at the same percentage rate?

22 MR. LEIBENSTEIN: Objection.

23 A I don't understand that question.

24 Q Is it your understanding that when a
25 Chapter 7 trustee distributes funds -- when he

Page 189

1 Zilly - Highly Confidential

2 distributes funds to general unsecured creditors,
3 that he makes a pro rata distribution?

4 MR. LEIBENSTEIN: Objection.

5 A My understanding is that there would
6 be an amount of value cash available to distribute
7 to unsecured creditors and that amount would be
8 distributed to unsecured creditors. I guess if
9 that's --

10 Q Well, yes. The rest of the question
11 was it would be distributed on a pro rata basis;
12 is that correct?

13 MR. LEIBENSTEIN: Objection.

14 A I'm having trouble with your question
15 because I don't understand when you say pro rata.
16 Pro rata on what?

17 Q Based on the amount of the claim as
18 allowed pursuant to Section 502 of the Bankruptcy
19 Code.

20 MR. LEIBENSTEIN: Objection, vague.

21 A I think the Chapter 7 trustee would
22 distribute the proceeds based on claims, claim
23 amounts or settlement of claim amounts.

24 Q So, what you are saying is that a
25 claim might be allowed based on either litigation

Page 190

Zilly - Highly Confidential
or settlement, and that most likely the allowance would take place pursuant to settlement; is that correct?

MR. LEIBENSTEIN: Objection.

A I think what I just said was that the pro rata -- that the distribution of the cash would be to claimants, and those claimants would either have allowed claims that were based on either claims and/or settlements of those claims.

Q Okay. And then once the allowed amount of the claim had been determined, most likely through settlement, the trustee would make a pro rata distribution to all claimants based on the allowed amount of their respective claims; is that correct?

MR. LEIBENSTEIN: Objection, form.

A I can't answer that question because I don't know what you mean by the concept of an allowed claim.

Q If we define allowed as the amount determined either by settlement or through the outcome of litigation between the trustee and the claimant, would that enable you to answer the question?

Page 192

Zilly - Highly Confidential
amount of that claim has been determined either by settlement or court order?

A I'm sorry, I don't understand your question. The same percent of what?

Q The same percentage of the allowed amount of the claim as determined either by settlement or court order.

MR. LEIBENSTEIN: Objection.

A To me percentage involves a numerator and a denominator, so I am -- so I guess I don't understand your question.

Q What is your understanding of how a trustee decides how much to pay to each creditor?

MR. LEIBENSTEIN: Objection, vague.

Q Once, once the amount of each claim has been determined either by litigation or by settlement.

A That would depend on how much -- how many assets were available.

Q Right. So, let's say that after obtaining -- to take an example, let's say that the funds left over after the assets are sold and the secured and priority claims are paid and all the expenses of the Chapter 7 are paid, are \$100,

Page 191

Zilly - Highly Confidential

A I'm sorry, say that again, please.

Q Okay. If I told you that the -- that the word "allowed" meant the amount of each claim determined either by settlement or by court order following litigation between the trustee and the claimant, would that permit you to answer the question?

A I'm sorry. I'm not understanding the question.

Q Let's assume then that there are two creditors and only two creditors in the Chapter 7 case. One of them has a claim for \$100, which is allowed by court order after a big fight, and the other one has a claim which gets settled for \$100. It's your understanding that in each case, the creditor would get the same percentage of its claim paid by the trustee?

MR. LEIBENSTEIN: Objection.

A It's my understanding the trustee would pay whatever the court ordered be paid on that claim.

Q Do you have an understanding of whether Chapter 7 requires that it be the same percentage of each claim that gets paid once the

Page 193

Zilly - Highly Confidential
and you have two claimants, one with a claim for \$100, and one with a claim for \$300. So the total claims are \$400 as allowed either by settlement or court order. And the assets, the cash that is available to pay those claims is \$100.

What is the percentage distribution to those creditors?

A Under that scenario, it's my understanding that one would get 100 percent of the claim, potentially not 100 percent of the settlement, if the settlement wasn't the same as the claim, and the other would get less than one percent.

Q So the trustee has \$100 to distribute to claims in the total allowed amount of \$400. Which claim is he going to pay in full?

A I'm sorry, that is not the way I understood the question.

MR. LEIBENSTEIN: You changed the hypothetical. The first time it was that there was \$100 to pay each of the claims. Pay one 100, and one 100 out of the 400.

Q I'm sorry, \$100 to pay all of the claims. So you have two claims, one for \$100 and

Page 194

1 **Zilly - Highly Confidential**
 2 **one for \$300, and there is \$100 available for**
 3 **distribution.**
 4 A Then each --
 5 MR. LEIBENSTEIN: Wait. Objection,
 6 vague.
 7 Q How much would be distributed to each
 8 creditor?
 9 MR. LEIBENSTEIN: Objection, vague.
 10 A It's my understanding that the
 11 trustee would distribute the \$100 to the claimant
 12 of -- with the \$100 claim, as well as the claimant
 13 with the \$300 claim.
 14 Q Right. So how much would go to each,
 15 how much of the \$300?
 16 A I'm sorry, I need a calculator. Less
 17 than 100 percent of their allowed claim.
 18 Q Since there is \$100 available to pay
 19 \$400 of claims in total, would that mean that each
 20 creditor got 25 percent?
 21 A If you say so.
 22 Q In a Chapter 7 case for Grace,
 23 commencing on December 31, 2009, what would the
 24 percentage rate of payment be to general unsecured
 25 creditors?

Page 196

1 **Zilly - Highly Confidential**
 2 claim number put forth -- and an unknown claim
 3 number, an unknown settlement for the asbestos PI
 4 and the PD claims that, based on my understanding
 5 of what the original claim amounts would be, would
 6 be significantly higher than what was settled for
 7 in the Chapter 11 case, which is why I state that
 8 the percentage would be less in Chapter 7 than
 9 under Chapter 11.
 10 (Discussion held off the record.)
 11 BY MR. COHN:
 12 Q Have you attempted to forecast the
 13 percentage rate of payment to general unsecured
 14 creditors in a Chapter 7 case with Grace
 15 commencing on December 31, 2009?
 16 MR. LEIBENSTEIN: Objection, vague.
 17 A I have not calculated the percentage.
 18 I just, I just know that the total claims for
 19 asbestos PI and PD would be higher in a Chapter 7
 20 than in the Chapter 11. In the Chapter 11.
 21 Sorry.
 22 Q Are you aware that in the Chapter 11
 23 case, asbestos PI claims that will ultimately be
 24 paid include not just present claims but also
 25 future demands?

Page 195

1 **Zilly - Highly Confidential**
 2 MR. LEIBENSTEIN: Objection.
 3 A I'm sorry, I'm sorry. Could you
 4 repeat the question.
 5 Q Sure.
 6 In a Chapter 7 case for Grace
 7 commencing on December 31, 2009, as you have
 8 assumed in the best interests analysis, what would
 9 the percentage rate of payment be to general
 10 unsecured creditors?
 11 MR. LEIBENSTEIN: Objection, lack of
 12 foundation.
 13 A Less than what they would get in a
 14 Chapter 11 case.
 15 Q How much would they get in a
 16 Chapter 11 case as a percentage rate of payment?
 17 A In a Chapter 11 case, you have an
 18 estimated value, based on the value of Grace's
 19 cash, certain settlements, and you have a general
 20 unsecured claim which according to the plan is
 21 fixed, and your provision for asbestos PI and PD
 22 claims which have been settled in accordance with
 23 the plan.
 24 In the Chapter 7 liquidation, you
 25 have less assets, no settlements, potential, and a

Page 197

1 **Zilly - Highly Confidential**
 2 A Yes.
 3 Q In a Chapter 7 case, would asbestos
 4 PI claims that got paid include not only present
 5 claims but also future demands?
 6 A I don't think the trustee in a
 7 Chapter 7 would have the time, the inclination or
 8 the money to differentiate between claimants that
 9 showed up claiming they were future claims or
 10 current claims.
 11 MR. COHN: I have no further
 12 questions.
 13 MR. LEIBENSTEIN: Somebody on the
 14 phone?
 15 MS. LOK: Yes.
 16 MR. LEIBENSTEIN: You said you only
 17 have a few minutes.
 18 EXAMINATION
 19 BY MS. LOK:
 20 Q Ms. Zilly, I'm representing Travelers
 21 Casualty. I'm with Simpson, Thacher & Bartlett.
 22 In your best interests analysis, did
 23 you perform any analysis to determine the value of
 24 distribution that Travelers would receive for its
 25 claims if the debtors liquidated under Chapter 7?